

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
FAYETTEVILLE DIVISION

IN RE:

LENT CHRISTOPHER CARR, II
DELTARINA V. CARR

CASE NO. 18-01386-5-JNC
CHAPTER 13

DEBTORS

MOTION TO TRANSFER CASE

NOW COMES Joseph A. Bledsoe, III, the duly appointed and acting chapter 13 trustee in the above-captioned matter, by and through undersigned counsel, and hereby moves pursuant to 28 U.S.C. § 1412 and Rule 1014 of the Federal Rules of Bankruptcy Procedure to transfer the debtors' case and requests that the Court enter an Order transferring case to the Middle District of North Carolina. In support, the trustee shows unto the Court the following:

1. The above-referenced debtors filed a Voluntary Petition under chapter 13 of the United States Bankruptcy Code on or about March 20, 2018 in the Eastern District of North Carolina.
2. This Court presently has jurisdiction of this matter pursuant to 28 U.S.C. §§151, 157 and 1334, and the Order entered by the Judges of the United States District Court for the Eastern District of North Carolina on August 3, 1984 (Referral Order), which Order was entered in accordance with the Bankruptcy Amendments and Federal Judgeship Act of 1984.
3. Upon information and belief, venue is improper in the Eastern District of North Carolina pursuant to 28 U.S.C. § 1408.

The Debtors' Domicile and Principal Assets

4. On or about March 20, 2018, the debtors filed an Official Form 101 (Voluntary Petition for Individuals Filing for Bankruptcy) and on Line 5 stated that they live at "3300 Laurinburg Road, Raeford, North Carolina 28376" which is located in the County of "Hoke."

5. Upon information and belief and according to the real property and tax records of Hoke County, North Carolina, 3300 Laurinburg Road, Raeford, North Carolina 28376 is located in Hoke County, North Carolina and was transferred to the debtors by quitclaim deed dated January 25, 2017 and recorded on or about October 4, 2017 in Hoke County Deed Book 1207 and Page 977.

6. On the Schedule A/B: Property (Official Form 106A/B; "Schedule A/B"), the debtors indicated on Schedule A , Lines 1.1, 1.2, and 1.5 ownership interests in three parcels of real property: "3300 Laurinburg Road, Raeford, North Carolina 28376" ("Residence"), with a current value of \$451,000.00; "4160 Laurinburg Road, Raeford, North Carolina 28376" ("Land Parcel 1") with a current value of "\$76,240.00;" and 521 Gatlin Farm Rd., Raeford, North Carolina 28376" ("Land Parcel 2") with a current value of "\$29,000.00."

7. Upon information and belief, both the Residence and two Land Parcels have a combined current value of \$556,240.00 and the properties are physically located in Hoke County, North Carolina.

8. On the Schedule A/B, the debtors also indicated on Schedule A, Lines 1.3, 1.4, and 1.5 further ownership interests in two other parcels of real property: "4185 Martin Luther King Jr St, Ayden, North Carolina 28513" ("Pitt Parcel 1") with a current value of the debtors' interest of "\$3,313.83;" and "4895 Gum Swamp Rd., Ayden, North Carolina 28513" ("Pitt Parcel 2") with a current value of the debtors' interest of "\$8,075.66."

9. Upon information and belief, the debtors' ownership interests in the Pitt Parcels have a combined current value of \$11,389.49 and the properties are physically located in Pitt County, North Carolina.

10. Also on the Schedule A/B, the debtors indicated on Schedule B, Lines 5, 15, and 36 ownership interests in personal property including vehicles (Line 5) of \$3,800.00, personal and household goods (Line 36) of \$2,622.00, and financial assets (Line 58) of \$52,096.49, totaling in value \$58,518.49.

11. Upon information and belief, most if not all of the personal property totaling in value \$58,518.49 is normal household and personal items that is associated with the debtors' domicile and is likely physically located in the Middle District of North Carolina.

12. On the Official Form 107 ("Statement of Financial Affairs for Individuals Filing for Bankruptcy") ("SOFA"), the debtors indicated on Line 2 that they have lived during the past three years most recently at "2400 Surry Road, Wilson, North Carolina 27896" from "Jan[uary] 2016 to Mar[ch] 2017."

13. Upon information and belief, in the 180 days since on or about September 21, 2017 and preceding the commencement of the case on or about March 20, 2018, the debtors have lived and resided in Hoke County, North Carolina for a longer portion of the 180-day period than anywhere else.

28 U.S.C. § 1408

14. Pursuant to 28 U.S.C. § 1408, a case under Title 11 (the "Bankruptcy Code") may be commenced in the district in which the domicile, residence, or principal assets of the person have been located for the 180 days immediately preceding the commencement of the case or for a longer portion of the 180-day period than the person was located in any other district.

15. Upon information and belief and according to the Official Forms filed by the debtors in this case, the debtors have resided in Hoke County, North Carolina for the majority of the 180-day period from September 21, 2017 to March 20, 2018.

16. Upon information and belief and according to the Official Forms filed by the debtors in this case, the debtors own real property in Hoke County, North Carolina with an aggregate value of \$556,240.00 and own personal property of \$58,518.49 most of, if not all of, which is physically located in Hoke County, North Carolina, and the debtors only own real property located in Pitt County, North Carolina with an aggregate value of \$11,389.49.

17. Thus, upon information and belief, the debtors' domicile, Residence, and the vast majority of principal assets owned by the debtors are located in Hoke County, North Carolina.

18. Pursuant to 28 U.S.C. § 113(b), Hoke County, North Carolina is a county that comprises the Middle District of North Carolina and not the Eastern District North Carolina.

19. Accordingly, as the domicile, residence, and principal assets of the debtors are located in another district, then the trustee requests that the case be transferred to the Middle District of North Carolina pursuant to 28 U.S.C. § 1412(a), in the interest of justice.

Prayer for Relief

WHEREFORE, the trustee prays the Court to enter an Order transferring case to the Middle District of North Carolina. The trustee also requests such additional or alternative relief as to the Court seems appropriate, or in the alternative, the trustee requests a hearing.

DATE: April 13, 2018

/s/Joseph A. Bledsoe, III
Joseph A. Bledsoe, III, Chapter 13 Trustee
NC State Bar No. 19817
/s/ Isaac A. Johnston
Isaac A. Johnston, Staff Attorney
NC State Bar No. 44502
P.O. Box 1618
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(252) 633-0074

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NOTICE OF MOTION TO TRANSFER CASE

The Chapter 13 Trustee has filed papers with the Court requesting to transfer your pending bankruptcy case to another judicial district.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the Trustee's objection, or if you want the Court to consider your views on the objection, then on or before **April 30, 2018**, unless otherwise ordered, you or your attorney must file with the Court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at: **Clerk, U.S. Bankruptcy Court, P.O. Box 791, Raleigh, NC 27602.**

If you mail your response to the court for filing, you must mail it early enough so the Court will receive it on or before the date stated above. You must also serve a copy of your response on: **Joseph A. Bledsoe, III, Chapter 13 Trustee, P.O. Box 1618, New Bern, NC 28563-1618.**

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the objection at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

DATE: April 13, 2018

/s/ Isaac A. Johnston

Isaac A. Johnston, Staff Attorney

NC State Bar No. 44502

Joseph A. Bledsoe, III, Chapter 13 Trustee

P.O. Box 1618

New Bern, NC 28563-1618

(252) 633-0074

CERTIFICATE OF SERVICE

I, Isaac A. Johnston, Staff Attorney for Chapter 13 Trustee, do hereby certify that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on the date indicated herein below, I served copies of the foregoing MOTION TO TRANSFER CASE by depositing a copy of the same in a postage-paid envelope with the United States Postal Service or by electronic means, as indicated.

Erich M. Fabricius (via first-class mail)

Attorney at Law
Fabricius & Fabricius, PLLC
PO Box 1230
Knightdale, NC 27545
(Attorney for Debtors)

Lent Christopher Carr, II (via first-class mail)

Deltarina V. Carr
3300 Laurinburg Road
Raeford, NC 28376
(Debtors)

DATED: April 13, 2018

/s/ Isaac A. Johnston
Isaac A. Johnston